

**COMMONWEALTH OF KENTUCKY  
17<sup>th</sup> JUDICIAL CIRCUIT  
CAMPBELL CIRCUIT COURT  
CIVIL ACTION NO. 22-CI-00402**

Jessica NEAL

PETITIONER

vs.

**COMMONWEALTH OF KENTUCKY  
STATE BOARD OF ELECTIONS**

**RESPONDENT**

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**MOTION FOR FINDINGS ON INTEGRITY OF THE BALLOTS**

Comes now Petitioner, Jessica Neal, and moves this Court to issue findings on the integrity of the ballots. The hand count of ballots for the 24<sup>th</sup> District Republican Senate race occurred on Wednesday, August 10, 2022. This Court entered several orders to effectuate the recount, including security, bond, chair, and counting procedures. KRS 120.095 requires the Court to find the integrity of the ballots “is satisfactorily shown.” For the reasons set forth below, Petitioner moves this Court to enter findings that the integrity of the ballots was not satisfactorily shown.

**CUSTODY OF VOTING EQUIPMENT AND MATERIALS**

KRS 120.095 states in pertinent part:

[T]he judge shall at once enter an order directing custody of the voting machines, voting equipment, or voting system, the ballots, boxes, and all papers pertaining to the election to be transferred to the Circuit Court...

According to this Court’s order, the voting equipment and materials were supposed to be transferred to the Court’s custody on Tuesday, August 9, 2022. Seals on machines should have

been sealed during transport. In the Court's order on recount Procedures, Paragraph 6 details the sequence of events leading up to the breaking of seals on the machines:

- d. A voting machine will be placed at each table.
- e. The team will begin by recording the identifiers associated with the machine.
- f. The machines' seal will be broken, and the team will organize the ballots from the bottom of the machine into one pile on their table.

It is important to note that the machine's seals will not be broken before the team is ready for counting that particular machine. Machines that arrived to the court with seals already broken cannot be verified as to whether their contents reflect the same contents exactly as appeared on election night at 6:00 p.m. May 17. Any machine that arrived to the court without a seal is in direct violation of KRS 117.275 due to the lack of a proper seal.

KRS 117.275(2)(a) states in pertinent part:

As soon as the polls are closed, and the last voter has voted, the judges at that time shall immediately lock and seal the voting equipment so that the voting and counting mechanisms will be prevented from operating, and they shall sign a certificate stating:

- (a) That the voting equipment has been locked against voting and sealed;

Petitioner discovered upon arrival the morning of August 10 for the recount that several machines lacked seals. Some machines had loose seals. Some machines had seals properly fitted and placed. See attached partial list and pictures<sup>1</sup> for examples of the many seals that were missing or loose.

At the July 28 hearing, each county clerk was sworn in and testified that their machines were all locked and sealed and had not been touched since election night. When questioned about the missing seals at the recount proceedings on August 10, there was verbal indication that the seals had been broken or replaced prior to transfer to the courthouse. Petitioner finds

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<sup>1</sup> See Exhibits A through I in Photographic Addendum, attached.

problematic that machines are being sealed and unsealed while they are supposed to be secured and transferred into court custody.

Petitioner also noted that unsealed machines, when opened, had unlocked inside compartments. For example, the Hart Intercivic Verity Scan machine requires a key to latch the tablet into place for storage<sup>2</sup>. A separate compartment latches closed to store the power cord adapter for the machine. Both were loose and unlocked/unlatched upon opening the unsealed machines, which appeared to surprise clerks present. Clerks also testified at the July 28 hearing that the machines could not be disconnected from the ballot boxes to save on transfer liability because when the machine is removed from its box, the seal is broken and ballot box is open. If the many machines arrived to the Court unsealed, the Court cannot verify their integrity. If the boxes were sealed as the clerks testified, then there would have been integrity issues after the ballots were in the Court's custody. Either way, Petitioner acknowledges that the ballots were not unsealed in accordance with this Court's order, which is a violation of KRS 117.295(1)(a).

Petitioner believed that this Court's order required all keys to voting machines be turned over to Lt. Chaplain upon the Court's taking possession of the ballots and machines on August 9. At the August 10 recount, a clerk was attempting to pry open a jammed machine and retrieved a set of keys to do so<sup>3</sup>. After a separate Sheriff's deputy from Lt. Chaplain's department had custody of the keys to work on the machine with the door jam, he relinquished them back to the clerk. It is unclear who all had keys at any given point, which could provide explanation for the access to unlock unsealed machines.

Likewise, Lt. Chaplain arrived to the recount with yellow seals in his pocket. The court never entered an order requiring machines be re-sealed. If machines can be re-sealed so easily,

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<sup>2</sup> Hart Verity Scan (Scanner) - <https://youtu.be/7SgIxAuTyW4>

<sup>3</sup> See Exhibit J in Photographic Addendum, attached.

the integrity of the existing seals cannot be shown until the seals are compared with the chain of custody forms.

### **REQUEST FOR DISCOVERY**

Petitioner notes that in order to verify the integrity of the machines that were sealed, the serial numbers of the seals must match the reports from election night relating to seals on various machines. Petitioner would therefore request the following be provided to the Court and parties in order to verify the integrity of the ballots:

1. SBE 75 forms from the May 17 election for each machine involved in the August 10 recount.
2. Any other documentation showing serial numbers of seals placed on machines, and their corresponding machines.

Wherefore, for the foregoing reasons, Petitioner requests the following:

1. Findings by this Court relating to the integrity of the ballots
2. An order requiring production of documents that would aid the Court and parties in understanding the full nature of unsealed/unlocked/loose sealed ballot boxes.

Respectfully submitted,

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(859) 816-5900  
Jessica@nealforky.com  
**Petitioner**

**NOTICE OF HEARING**

Please take notice that the motion will be heard in the Campbell County Circuit Court on August 12, 2022 at 1:00 PM or at the Court's earliest convenience.

**CERTIFICATE OF SERVICE**

I, Jessica Neal, do hereby verify on this 11<sup>th</sup> day of August, 2022, that I have delivered a copy of my Motion for Findings on Integrity of the Ballots to Taylor Brown, 140 Walnut St, Frankfort, Ky 40601, TaylorA.Brown@ky.gov, by first class mail and email.

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**Jessica Neal**

**PARTIAL LIST OF MACHINES WITHOUT SECURITY TAG**

<b>Campbell County*</b>
Alexandria City Building
Belleview Gym
Eastern Campbell Firehouse
Cline Elementary
Grand Towers
Southern Campbell Firehouse
Cold Spring First Baptist Church - Early Voting
Southern Campbell Firehouse - Early Voting
6 Day Walk In Clerk's Office
3 Day Walk In Clerk's Office
Absentee/Mail-In

\*Note: All locations have not been included for this report due to inability to get all records along with notating other data.

<b>Pendleton County</b>
All 6 voting machines

<b>Bracken County</b>
All 6 voting machines

**PHOTOGRAPHIC ADDENDUM**

**EXHIBIT A**

Campbell County machines with and without seals. In the foreground, the Wilder City Building machine has a yellow seal/tag present. Note also the relative looseness of the yellow tag and the tightness of the blue security tag/seal as opposed to subsequent photos.



**EXHIBIT B**

View 2 of Campbell County machines with and without yellow tag/seal.





**EXHIBIT C**

View 3 of Campbell County machines with and without yellow tag/seal.



**EXHIBIT D**

Sample Campbell County machine with no yellow security tag/seal present.



**EXHIBIT E**

Sample 2 of Campbell County machine with no yellow security tag/seal present.



**EXHIBIT F**

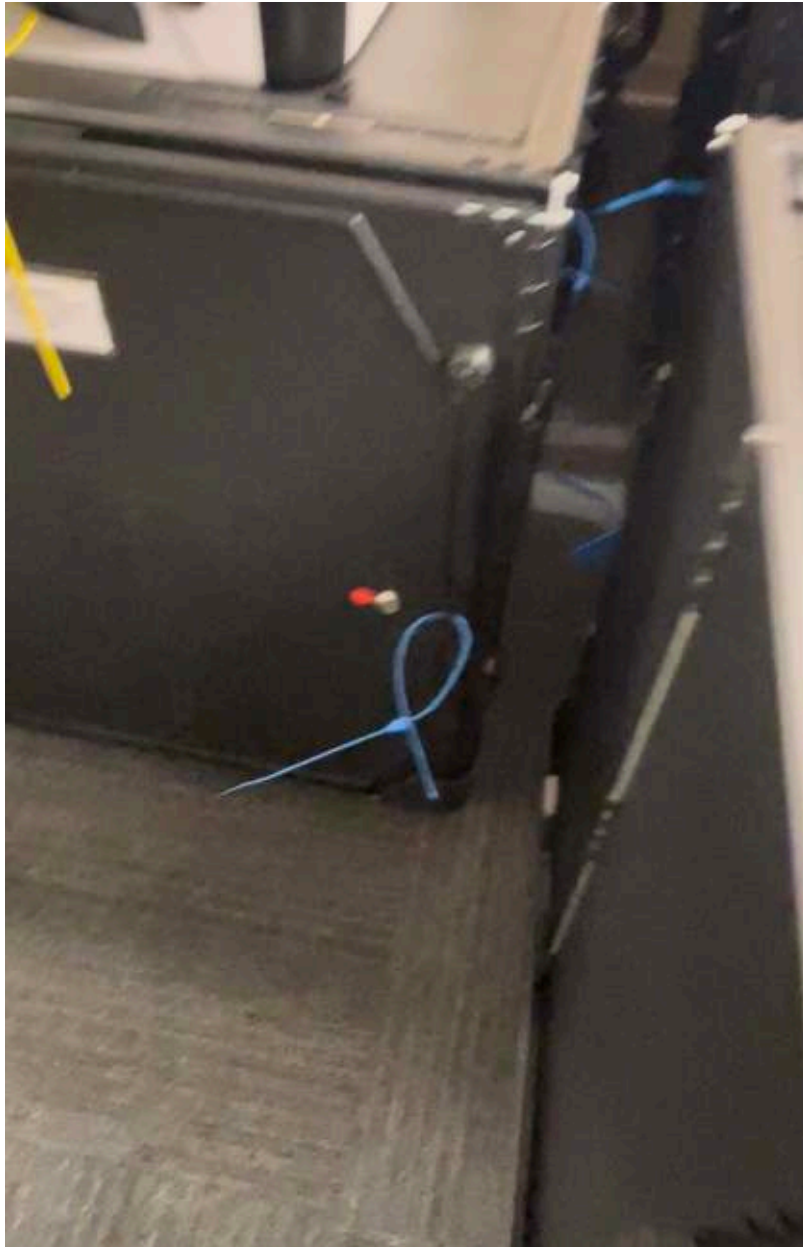
Pendleton County machine with no yellow security tag present.



## EXHIBIT G

Note the relative looseness of the blue security tag/seal compared to the blue tag in Exhibit A.

This tag should be tight to prevent any door movement.



**EXHIBIT H**

Image depicting loose blue tags.



**EXHIBIT I**

Note the tightness of this yellow tag compared to earlier photographs.



## EXHIBIT J

Campbell County Deputy Clerk Jennifer Free provides a set of keys still in her possession to a sheriff in order to pry open a jammed machine door for the Camp Springs Firehouse polling location

